

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70346; File No. SR-MIAX-2013-41)

September 9, 2013

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Options Fee Schedule

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 28, 2013, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend its Fee Schedule.

The text of the proposed rule change is available on the Exchange’s website at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish a \$0.05 transaction fee for executions in standard option contracts and \$0.005 transaction fee for Mini Option contracts for Market Makers<sup>3</sup> registered on the Exchange.

The transaction fees for Market Makers are: (i) RMMs \$0.23 per contract for standard options or \$0.023 for Mini Options; (ii) LMMs \$0.20 per contract for standard options or \$0.020 for Mini Options; (iii) DLMMs and PLMMs \$0.18 per contract for standard options or \$0.018 for Mini Options; and (iv) DPLMMs \$0.16 per contract for standard options or \$0.016 for Mini Options.<sup>4</sup> These transaction fees are currently subject to a fee waiver until August 31, 2013.<sup>5</sup>

The Exchange proposes to implement the new transaction fees beginning September 3, 2013, after the current fee waiver expires. The proposed transaction fees

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<sup>3</sup> Market Makers may be registered as a Lead Market Maker or as a Registered Market Maker. See Exchange Rule 600(b). Market Makers registered on the Exchange for purposes of the transaction fee and Section 1(a)(i) of the Fee Schedule include: (i) Registered Market Maker ("RMM"); (ii) Lead Market Maker ("LMM"); (iii) Directed Order Lead Market Maker ("DLMM"); (iv) Primary Lead Market Maker ("PLMM"); and Directed Order Primary Lead Market Maker ("DPLMM"). See MIAX Options Fee Schedule, Section 1(a)(i) – Market Maker Transaction Fees.

<sup>4</sup> See MIAX Options Fee Schedule, Section 1(a)(i) – Market Maker Transaction Fees.

<sup>5</sup> See Securities Exchange Act Release Nos. 70069 (July 30, 2013), 78 FR 47457 (August 5, 2013) (SR-MIAX-2013-36); 69710 (June 6, 2013), 78 FR 35349 (June 12, 2013) (SR-MIAX-2013-26).

are designed both to enhance the Exchange's competitiveness with other option exchanges and to strengthen its market quality. The Exchange believes that the new fees will increase both intermarket and intramarket competition by incenting market participants and market makers on other exchanges to register as Market Makers on the Exchange. In addition, the Exchange believes that the reduced transaction fees for Market Makers registered on the Exchange promote tighter bid-ask spreads by Market Makers, and increase the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is fair, equitable and not unreasonably discriminatory. The proposal is reasonable because it results in a decrease in Market Maker transactions fees for all Market Makers on the Exchange in order to enable the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed fees are fair and equitable and not unreasonably discriminatory because they will apply equally to all Market Makers regardless of type. All Market Makers will be subject to the same transaction fee, and access to the Exchange is offered on terms that are not unfairly discriminatory. The registration as an

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

Exchange Market Maker is equally available to all market participants and Electronic Exchange Members (“EEMs”) that satisfy the requirements of Rule 600. Any market participant may choose to satisfy the additional requirements and obligations of being a Market Maker in order to qualify for the transaction fee.

The decrease in transaction fees for Market Makers, and no other market participants, is equitable and not unfairly discriminatory because Market Makers on the Exchange have enhanced quoting obligations measured in both quantity (% time) and quality (minimum bid-ask differentials) that other market participants do not have.<sup>8</sup> The proposal is reasonably designed to enhance the quality of quoting and volume transactions by limiting the proposal to those market participants that have these enhanced obligations to deliver quality markets. Decreasing transaction fees should incent market participants and market makers on other exchanges to register as Market Makers on the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded in options listed on MIAX. To the extent that this purpose is achieved, all the Exchange’s market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange believes that an increase in the number of Market Makers, and an increase in the execution volume from Market Makers, will result in increased revenue from other fees and dues that may apply to Market Makers that may potentially offset a

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<sup>8</sup> See MIAX Rules 603, 604, 605.

portion of the lower transaction fees.<sup>9</sup> While the Exchange believes that an increase in the number of Market Makers, and an increase in the execution volume from Market Makers, may potentially result in increased trading activity of other market participants, the Exchange does not believe that the proposed fee will result in other market participants subsidizing the activity of Market Makers since the Exchange is not proposing any changes to increase the existing fees of other market participants in order to compensate for the proposed fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal increases both intermarket and intramarket competition by incenting market participants and market makers on other exchanges to register as Market Makers on the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded on MIAX. To the extent that there is an additional competitive burden on non-Market Makers, the Exchange believes that this is appropriate because Market Makers registered on the Exchange have enhanced quoting obligations measured in both quantity (% time) and quality (minimum bid-ask differentials) that other market participants do not have. Decreasing transaction fees should incent market participants and market makers on other exchanges to register as Market Makers on the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded here. To the extent that this purpose is achieved, all the

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<sup>9</sup> The Exchange notes that the proposal has no effect on other fees and dues that may apply to Market Makers including marketing fees, Options Regulatory Fees, market data, and membership application fees.

Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposal reflects this competitive environment because it reduces the Exchange's fees in a manner that encourages market participants to register as Market Makers, to provide liquidity, and to attract order flow to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, proposals to implement lower transaction fees to attract Market Maker volume like this filing is consistent with the above-mentioned goals of the Act. This is especially true for the smaller options markets, such as MIAX, which is competing for volume with much larger exchanges that dominate the options trading industry. As a new exchange, MIAX has a nominal percentage of the average daily trading volume in options, so it is unlikely that lowering transaction fees could cause any competitive harm to the options market or to market participants. Rather, the proposal is a modest attempt by a small options market to attract order volume away from larger competitors by adopting an innovative pricing strategy. The Exchange notes that if the proposal results in a modest percentage increase in the average daily trading volume in options executing on MIAX, while such percentage would represent a large volume increase for MIAX, it would represent a minimal

reduction in volume of its larger competitors in the industry. The Exchange believes that the proposal will help further competition, because market participants will have yet another additional alternative in determining where to execute orders and post liquidity if they factor the benefits of Market Maker transaction fees into the determination.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>10</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form

(<http://www.sec.gov/rules/sro.shtml>); or

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2013-41 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2013-41. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-MIAX-2013-41, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

Action as set forth or recommended herein  
APPROVED pursuant to authority delegated by the  
Commission under Public Law 87-592.

For the Division of Trading and Markets

by: \_\_\_\_\_

date: \_\_\_\_\_

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<sup>11</sup> 17 CFR 200.30-3(a)(12).